

There were present: Anderson, McDonough, Jeton, Batchelder, Reilly, Bevacqua, Brown, Baime, and Ranalli. Meeting opened at 7:05 p.m.

PETITION NO. 3740

PETITIONER: 69 North Street LLC

PREMISES AFFECTED: 57 + 59 North St. & 5 + 7 Webster St.

Bevacqua made a motion to extend the opening of the public hearing until 11/1 /07. Batchelder seconded the motion & the Board voted unanimously to extend the opening of the hearing until 11/1 /07.

PETITION NO. 3724

PETITIONER: Killorin

PREMISES AFFECTED: 36 Central St.

Batchelder made a motion to continue the hearing to 11/1/07. Jeton seconded the motion & the Board voted unanimously to continue the hearing to 11/1/07. Abby O'Hara, 63 Central St., asked if the corrected plan would be available at the next meeting. Attorney Robert Lavoie, representative for the Ryans of 53 Central St., stated that he was prepared to present this evening. Anderson asked for the reason for the requested continuance. Attorney Thomas Caffrey explained that the 1<sup>st</sup> continuance was for the neighbors, the second by the Board, & the present because the Petitioner is away. Anderson suggested hearing from the neighbors; the attorney can respond & then continue the hearing to 11/1/07. Lavoie agreed. The Board then proceeded with other business.

PETITION NO. 3726

PETITIONER: Barenboim

PREMISES AFFECTED: 11 Bateson Dr

Reilly made a motion to continue to the 11/1/07 meeting. Batchelder seconded the motion & the Board voted unanimously to continue the hearing to 11/1/07.

PETITION NO. 3727

PETITIONER: Westaway

PREMISES AFFECTED: 326 River Road

Brown made a motion to continue the hearing to 11/1/07. McDonough seconded the motion & the Board voted unanimously to continue the hearing to 11/1/07.

PETITION NO. 3721 & 3733

PETITIONER: E. Julian Realty

PREMISES AFFECTED: 321, 323, 325 Lowell Street

Attorney Daniel Hayes Jr., petitioner's representative, waived reading of the notice. King Weinstein, principal of Julian Realty, & Steve Stapinski of Merrimack Engineering, were present. Hayes gave an overview of the proposed child care & office/bank buildings. The variances relate to off-site signs, landscape buffer, building setbacks & the 9500 sq. ft. child care building (exceeding the 3,000 sq. ft. maximum). The proposal exceeds the minimum parking requirements. Hayes explained that the lot is irregularly shaped due to a taking for the highway & does not have frontage on Lowell St. Signage would be placed at the entrance to 311 Lowell St & the drive. The landscape buffer would be 5' instead of 12' along the rear lot line with Windsor Green Apts. The office/bank building would be set back less than the required 50'. The child care would have 33.12% open space, where 35% is required. A special permit is requested for the bank drive-through & office building. Hayes argued that it will not be a detriment to the existing diverse neighborhood, but will be a benefit. Anderson suspended the hearing to open the cases advertised for 7:30 p.m. The Board will return to this case later in the evening.

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Anderson noted that he recuses himself from all wireless cases, but that he has heard of ice falling near the proposed playground. Hayes noted the comment.

PETITION NO. 3716

PETITIONER: Terravert LLC

PREMISES AFFECTED: 65 Cheever Cir.

MEMBERS: Anderson, McDonough, Jeton, Brown, Ranalli

This is a continued public hearing. Attorney Mark Johnson, Petitioner's representative, submitted copies of letters of support. Anderson asked for the engineer's report. Johnson stated that due to discussion at the site view, they will not deal with drainage issues. Richard Kaminski, Petitioner's engineer, calculated the amount of fill brought in onto Lot 2 in stages (as shown on the plan) as approximately 590 cubic yards total. He hadn't done a survey prior to the filling, but used Town planimetric maps as a base. He submitted a certification letter on the volume of fill, which began in June – September 2003 totaling 255 cubic yards. Between September & November 2006 580 cubic yards were imported. Kaminski noted that there is a 5-10% margin of error overall. At 67 Cheever Circle, a total of 314 cubic yards was imported. Regrading plans depicting a 25% or less slope were submitted. Anderson inquired as to whether more fill will be brought in. Mr. Arabian, petitioner, stated not at this time. Brown asked if the fill imported in 2003 was regraded at the time of delivery. Kaminski explained that it was pushed back & has a flat top, but the slope is in excess of 25%. Johnson provided the Board with exhibits chronicling the importation of fill. Until a neighbor complained to the Inspector about drainage, all was well. Then the stop work order was issued. Arabian wasn't able to regrade due to the order & is now appealing the Inspector's stop work order. They are requesting a variance to finish regrading to meet slope requirements. There was a permit for 60 cu. yds. but only 30 yds. were imported. Anderson asked if the total imported exceeds the by law. Johnson explained that 300 yards are allowed in a 3-yr. period and that the 590 figure is not exact. Anderson clarified that the variance is for a 25 cu. yd. discrepancy. Arabian pointed out that the Inspector advised him to get a permit only after the 300 cu. yds. had been imported & that the contractor brought in fill against his will without a permit due to a miscommunication. Jeton asked why, if the extra fill was brought in during November 2006, a violation notice was issued in May 2007. Arabian stated it was a separate violation notice due to the complaints, which the Inspector lifted when she realized there are two separate lots. The May '07 notice was in response to Attorney Caffrey's letter about grading. Attorney Caffrey declined to comment after the Chair's request for comment. Ranalli made a motion to close the hearing. Batchelder seconded the motion & the Board voted (5-0) to close the hearing. Deliberation will be at the end of the meeting.

PETITION NO. 3728

PETITIONER: Wheeler

PREMISES AFFECTED: 12 Fosters Pond Rd

MEMBERS: Batchelder, Bevacqua, Ranalli, Jeton, Anderson

John Wheeler represented himself in his request for an extension of Decision Nos. 3542 and 3572 to continue constructing the previously approved plans of the prior owner. The Board noted that the previous decisions granted special permits, which are valid for two years. Wheeler plans to commence at the beginning of next year. Batchelder made a motion to grant a one-year extension. David Adilman, 15 Fosters Pond Rd, asked what had been approved & if it was for resale or occupancy. Jeton explained the prior approvals. Anderson added that the current owner purchased the property at the end of the special permit period. Wheeler confirmed this. The Board discussed the fact that the prior owner had two public hearings and abutters had ample time to inform themselves. Anderson suggested voting tonight or continuing so neighbors can talk. Lisa Walters, 15 fosters Pond Rd, commented that the new owners do not live in the house & therefore they have been unable to address them prior to this meeting. Wheeler asked the Board to vote tonight. Batchelder made a motion to close the public hearing. Jeton seconded the motion & the Board voted unanimously to close the hearing. Batchelder made a motion to grant a 1-year extension from the date 20-days after the expiration date of the original December 2005 special permit. Jeton seconded the motion & the Board voted unanimously to grant the extension.

PETITION NO. 3721 + 3733

PETITIONER: Edward Julian Realty Trust

PREMISES AFFECTED: 321, 323, 325 Lowell St

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MEMBERS: Anderson (Chair), McDonough (Clerk), Jeton, Ranalli, Brown

At 8:12 p.m. the Board reconvened the hearing. Steve Stapinski, Merrimack Engineering, continued his presentation on the proposed day care. The playground at the rear of the building will be near the existing cell tower, but because ice from the tower falls vertically within the 60'x60' easement area, this will not be an issue. The access easement for drop-off will have a circular turn-around and a 2-way roadway, which the bank will also use. They already have the rights to connect to utilities. Signage will consist of one directional sign for users, one on-site sign that complies with the by law, and one sign at the street. Planning Board Site Plan Review will be necessary. Jeton noted that the playground is counted as open space & voiced concern over signage. Signage will be on the existing monument at the street. Anderson suggested that the request for signage is premature; that the use should be decided first. Batchelder asked for the probability of ice falling further during a storm. Ice bridges above the cables will make it fall vertically. Attorney Robert Lavoie, representative of 311 Lowell St owner Criterion, stated that his clients have no opposition to the current proposal and that he is unsure of the recorded cross-easement agreement for signage that is in place. His clients would be satisfied with a condition that a signage agreement be demonstrated by the applicant. Several members of the public noted their concern over traffic safety. Stapinski asked Dermot Kelly, of DKJ Associates, to prepare a traffic signal warrant. The same was submitted to Chair Anderson. Kelley's based his work on the traffic study prepared by Criterion for Windsor Green Apts. Jeton reminded the Board that when Criterion was before the Board, the warrant was not met. She asked how close it is to the warrant threshold. Lavoie was uncertain & would report back to the Board. Stapinski pointed out that the warrant analysis was done for a 10,000 sq. ft. building. Anderson suggested closing the hearing and deliberating at another time, or continuing the hearing & deliberating at another time. Brown made a motion to close the hearing for 3721 + 3733. Batchelder seconded the motion. Anderson asked Attorney Hayes if he wished to withdraw without prejudice the request for relief for the signs. Hayes stated he did want to withdraw without prejudice & would submit a withdrawal letter. Batchelder made a motion to withdraw without prejudice the sign relief. Reilly seconded the motion. The Board voted (5-0) to withdraw without prejudice the sign relief under section 5.2.10.3 The Board then voted (5-0) to close the public hearing. The Board then proceeded to deliberate case no. 3721 (related to the restaurants. Brown made a motion to find that there is no hardship & to deny the requested variances for the restaurants. Batchelder seconded the motion. Anderson asked the Board to table the current motion and asked for a motion to approve case no. 3733 without the signage or a motion to deny the same. Brown made a motion to deny #3733 without the signage. No one seconded the motion. Anderson asked the Board to address the merits of #3733. Brown felt the intensity of the proposal with two uses, associated parking & a decreased buffer is too great. The size of the daycare is also of concern, as well as fire protection. Brown noted that the shape/size of the lot is a hardship & would be amenable to approving the daycare only. Anderson asked for a second to Brown's motion to deny. Jeton seconded the motion. Anderson felt other potential used would be more sensitive & less intense. He stated his favor for motion #1 (restaurants) & reluctant favor for motion #2 (day care / bank), but that he would vote for a far less intense proposal. Jeton agreed with Anderson & Brown. She voiced concern over daycare use, suggesting an IDR / more work with Town staff. Batchelder agreed with Anderson, Brown & Jeton. Anderson entertained a point of order to withdraw the second proposal without prejudice. Hayes asked for a point of order to withdraw without prejudice #3733 (daycare). Anderson stated the hearing would have to be re-opened. He then made a motion to deny #3721. The Board voted (5-0) to deny #3721. Brown will write the decision.

PETITION NO. 3729

PETITIONER: Healy

PREMISES AFFECTED: 50 Elm Street

MEMBERS: Anderson (Chair), Bevacqua (Clerk), Baime, Brown & Ranalli

Mrs. Healy represented herself & her husband in their request to add on a 2-car attached garage that will not meet setbacks. Their lot is on the corner of Elm & Maple. Healy explained that the proposed attached garage is in keeping with the neighborhood character of large Victorians. They have spoken with one neighbor. Brown made a motion to close the hearing. Bevacqua seconded the motion & the Board voted (5-0) to close the hearing. The Board waived the site view. Brown suggested it could be done with a special permit. Anderson suggested a variance due to the trapezoidal shape of the lot & the citing of the house on the lot. The Board voted (5-0) to grant a variance for the garage & a special permit for the dormer. Ranalli will write the decision.

PETITION NO. 3730

PETITIONER: Scarborough

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PREMISES AFFECTED: 27 Lincoln Circle East

MEMBERS: Anderson (Chair), McDonough (Clerk), Jeton, Batchelder and Brown

Kris Scarborough represented himself & his wife in their request to construct a rear deck (14'x20') that will encroach into the rear setback. The proposed setback is 21'. Scarborough noted that at the rear property line is an old bridle path easement, approximately 10' wide, and then woods. They have spoken with their neighbors. The existing house was built in 1960. Mary Carbone, Cyr Circle, asked if there is Conservation land in the area. There is not. The Board waived a site view. McDonough made a motion to close the public hearing. Batchelder seconded the motion & the Board voted (5-0) to close the hearing. McDonough suggested a variance could be granted. Anderson & Brown agreed. Anderson suggested the hardship is the citing of the house on the lot in a cockeyed manner. The Board discussed alternatives, particularly when the hardship is not substantial. Jeton suggested that the intent of the by-law would be served. Batchelder agreed. The Board voted (4-1) to grant a variance. Brown voted in opposition. Jeton will write the decision.

PETITION NO. 3732

PETITIONER: Minasian

PREMISES AFFECTED: 9 Green Meadow Ln

MEMBERS: Anderson (Chair), McDonough (Clerk), Bevacqua, Jeton, Batchelder and Brown

Gregory Minasian represented himself & his wife in their request for a variance &/or a modification of a comprehensive permit to add a rear deck to their house located in SRB. Minasian stated that there is an existing deck/platform that he wants to replace with a 20'x12' deck. Anderson pointed out that the comp. permit allowed the construction of the house. Jeton asked if they were denied a building permit. They were denied. Brown suggested the deck could be done as a minor modification of the comp. permit. Bevacqua asked what the setbacks are after the comp. permit. They are 25' front, 15' side & 20' rear. Jeton pointed out that condition 3 states 'conformance with plans approved' and not a change in setbacks under the comp. permit. Minasian informed the Board that the beam was there, but the deck was incomplete. No deck was on the original plans. The Board waived a site view. McDonough made a motion to close the public hearing. Batchelder seconded the motion. Baime, Batchelder & Ranalli will sit off this case. Anderson noted that the approved plans for the comp. permit are like a restrictive covenant & that he is opposed to modifying or granting a variance due to concern over the domino effect. Bevacqua argued that other homes have decks. Anderson pointed out that they weren't shown. Jeton said the information is missing because they don't have the plans. Anderson conceded that if the plans show no or smaller deck, then they would have to comply with those plans. The Board discussed that the request is to modify the comp. permit, regardless of whether the deck is shown on the original plans. Bevacqua made a motion to continue the deliberation to 11/1/07. No one seconded the motion. McDonough made a motion to deny the petition. Jeton seconded the motion. The Board voted (4-1) to deny the variance (Bebacqua opposed to denial). Jeton made a motion to deny the request to modify the comp. permit. McDonough seconded the motion. The Board voted (4-1) to deny the modification. (Brown opposed to denial). McDonough will write the decision.

PETITION NO. 3739

PETITIONER: Zytковicz

PREMISES AFFECTED: 18 Harding St

MEMBERS: Anderson (Chair), McDonough (Clerk), Bevacqua, Jeton, Baime, Ranalli, Batchelder and Brown

Molly Zytковicz represented herself & her husband in their request to construct a rear deck that will render the existing detached garage non-conforming. The lot lacks frontage. The Board discussed alternatives to construct a conforming deck. Jeton stated her inclination to grant a variance. The Board waived the site view. McDonough made a motion to close the hearing. Batchelder seconded the motion. Anderson, Brown & Bevacqua will sit off. McDonough is Chair & Batchelder is Clerk. Batchelder made a motion to grant a variance based on the shape of the lot. Ranalli seconded the motion. The Board voted (5-0) to grant a variance. Jeton will write the decision.

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PETITION NO. 3731

PETITIONER: Ahern

PREMISES AFFECTED: 386 Lowell St

MEMBERS: Anderson, McDonough, Bevacqua, Jeton, Baime, Ranalli, Batchelder, & Brown

Doug Ahern represented himself in his request a special permit to construct a single-family dwelling that will not meet setbacks on a lot in SRC that lacks sufficient frontage & area. The existing house, which was heavily damaged by fire, occupies 14% of the lot, while the proposed will occupy 7.7% lot coverage. The new house will be set back further. Ahern submitted photos of the existing adding that it is across the street from Haggetts Pond. The fire was in December 2006. Edward Landy, 5 Tessier Dr., spoke in favor. Brown asked for the existing & proposed dwellings' area & volume. Ahern was unsure. Jeton pointed out that it wasn't necessary since they had the footprint analysis. The Board waived a site view. Bevacqua made a motion to close the hearing. McDonough seconded the motion & the Board voted unanimously to close the hearing. Sitting on this case will be Anderson, Brown, Ranalli, Bevacqua, & Baime. Bevacqua stated that a special permit could be granted. Brown agreed, under section 3.3.7. Bevacqua made a motion to grant a special permit under section 3.3.7. Brown seconded the motion & the Board voted (5-0) to grant the special permit. Baime will write the decision.

PETITION NO. 3734

PETITIONER: Ahern

PREMISES AFFECTED: 160 Dascomb Rd

MEMBERS: Anderson (Chair), Batchelder (Clerk), Jeton, Ranalli & Brown

Attorney Johnson represented Petitioners in request for an addition that will exceed 25% maximum coverage. Engineer Bernie Paquin was also present. An IDR was conducted & the Planning Board hearing was opened. Both Andover & Tewksbury Conservation Commissions have opened their hearing. Johnson stated that the question is how to calculate lot coverage. It is not defined in the by law. Should wetlands be excluded? If it is calculated without the wetlands, is the total calculated in both towns? Johnson asked the Board to look at the area in both towns excluding wetlands and to find this a moot case. He is aware of the lot area excluding the wetlands and noted that the concern is the footprint in relation to the lot area. Anderson commented that with the wetlands, there is enough area, but without them, they may regret it later. Johnson suggested using total area in both towns. Anderson asked if Tewksbury zoning is similar. Paquin confirmed that the land is industrially zoned in Tewksbury. Jeton asked for clarification if it was without a lot coverage requirement. Paquin confirmed that it is and that the lot, in Tewksbury, meets it: maximum 35%, proposed 1/3%. Jeton noted that other cases like this have been dealt with under the Andover Zoning By-Law totally. Anderson made a motion to close the hearing & find the case moot because of the total area in both towns. Jeton seconded the motion & the Board voted (5-0) to close the hearing & find the case moot.

PETITION NO. 3735

PETITIONER: Vining

PREMISES AFFECTED: 12 Elysian Dr

MEMBERS: Anderson (Chair), McDonough (Clerk), Batchelder, Bevacqua, Jeton, Ranalli & Brown

Bert Vining represented himself in his request to remove & reconstruct an existing deck that does not meet setbacks. The existing deck is unsafe. The proposed deck will be the same size. The house was built in 1967. He has spoken with his neighbors & they were in support of it. There are no conservation issues, per the Conservation Commission, despite the wetlands at the rear of the lot behind the existing pool. Anderson pointed out that the wetlands are close enough to create a hardship. The Board waived a site view. McDonough made a motion to close the public hearing. Batchelder seconded the motion & the Board voted unanimously to close the hearing. Anderson, McDonough, Brown, Batchelder & Jeton will sit on this case. The Board deliberated, noting the unusual shape of the lot, no alternate location for the deck & the existing in-ground pool. Jeton made a motion to grant a variance. Brown seconded the motion & the Board voted unanimously to grant the variance. McDonough will write the decision.



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PETITION NO.: 3724

PETITIONER: Killorin

PREMISES AFFECTED: 36 Central St.

MEMBERS: Anderson (Chair), McDonough (Clerk), Batchelder, Jeton, Brown

Attorney Lavoie interjected, suggesting that the Board continue the hearing, which was suspended previously in the evening, to November 1, 2007. Anderson returned to the motion of 7:02 p.m. Brown made a motion to continue the hearing to November 1, 2007. The Board voted unanimously to continue the hearing to 11/1/07.

PETITION NO. 3736

PETITIONER: Penner

PREMISES AFFECTED: 80 Haverhill St

MEMBERS: McDonough (Clerk), Batchelder (Clerk), Baime, Bevacqua, Ranalli & Brown

Anderson & Jeton recused themselves from the hearing. Mr. Penner represented himself & his wife in their request to construct a portico over the existing front steps. The proposal is similar to other houses in the neighborhood. It will increase safety during winter weather. Bevacqua asked if it will be setback further than the neighbors'. Penner confirmed that it will be further back. Batchelder noted that the house was built approximately in 1940. Batchelder made a motion to close the public hearing. Bevacqua seconded the motion & the Board voted unanimously to close the hearing. Baime will sit off the case. Batchelder stated that a variance could be granted. Brown commented that a variance isn't necessary because the existing steps conformed to the 30' setback at the time of construction. The setback changed to 35', but there is no additional encroachment. It can be done under a special permit. Brown made a motion to grant a special permit. McDonough seconded the motion & the Board voted (5-0) to grant a special permit. Brown will write the decision.

PETITION NO. 3737

PETITIONER: T-Mobile

PREMISES AFFECTED: 14 Prospect Rd

MEMBERS: McDonough (Chair), Jeton (Clerk), Baime, Batchelder, Bevacqua, Brown, Ranalli

Attorney Brian Grossman represented Omnipoint in their request to erect a 125' monopole on the site, owned by Mass Highway. The monopole would conform to the height requirement & the antennas will not be above 125'. A 68'x68' compound, enclosed in 8' high chain link fence, will also include space for Mass Highway, State Police & traffic/weather video camera for Mass Highway. Grossman noted that the camera will not take one of the 3 antenna elevations. There will be 3 base transmission cabinets within a 70'x70' leased areas. They are requesting a waiver for the setback, which is proposed at 381' to Prospect Rd, 183' to the rear lot line. There will be a 10'x20' turn-around. The nearest residential abutter is 202' to the west and Rt. 125 is 186' away. Baime asked if the tower fails, what area is needed. Grossman explained that the tower is designed not to fail at the base, but if there were a catastrophic / all-out failure, it would crumple at multiple points to fall in on itself. Jeton asked for the drop zone. Grossman stated the drop zone has a 125' radius. Troy White, RF Engineer, gave an overview of the existing network & coverage objectives. McDonough pointed out that the variance request for the setbacks for the monopole & cabinets falls short by almost half, where 375' is needed to meet the by law. She asked if they could lease more land to avoid a variance. Grossman explained that it is not possible & that they would need approximately 12.9 acres and be able to place the monopole in the exact center. He emphasized that the proposed monopole will fill coverage gaps. White added that the carrier has a different network than other carriers and that with a gap a 9-1-1 call cannot be made. McDonough asked if an alternate location on the site is available to improve the setback discrepancy. Jeton reminded the Board that section 6.1.2 gives them latitude to modify the setbacks if certain conditions were met, including certification of tower to collapse under failure. Grossman directed the Board to Note 4 on the plans submitted and offered to submit such a certification. Brown pointed out the technical infeasibility of meeting the setback (Section 6.1.10) because the land isn't big enough. Ranalli agreed. The Board asked why more towers were located on Prospect Rd atop Ward Hill & how they chose the sites in the photos. Grossman stated

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that part of the reason is historical issue. Pam Dunn, 12 Prospect Rd / immediate abutter, voiced her opposition & concern over the height. She asked if the tower on Ward Hill is full. Bevacqua asked if provided coverage for the applicant. Grossman submitted a plot of Ward Hill Tower, which does not provide enough coverage. Dunn voiced concern over health risks & if another pole would be erected. No additional towers would be erected, according to Grossman. Dot McGlinchy, 62 Prospect Rd, voiced the same concerns as Mrs. Dunn. She asked about the visual impact, increased noise & fuel fumes, & the risk of spills / releases. Grossman submitted two more coverage plots, depicting inadequate coverage. Brown asked Grossman to touch on the technical infeasibility (6.1.10), Grossman explained that it is dealt with as a coverage issue, regardless of the location; they need a variance for setback. They believe they have the best spot to increase coverage with the least intrusion. Jeton reminded the Board that they need to consider the intent of the by law (to protect residents & Town), adding that there are existing antennas in steeples, etc. Brown commented that the yard in a residential district is an anomaly. Batchelder made a motion to close the public hearing. Brown seconded the motion & the Board voted unanimously to close the hearing. The Board will deliberate on Saturday, 9 a.m. at the Public Safety Center. Baime, Batchelder, Jeton, McDonough & Ranalli are on the case. Jeton asked to view the site. The Board will view the site at 8:30 a.m., Saturday, 10/13/07 at 14 Prospect Rd., Mrs. Dunn gave permission for access to her lot. Jeton made a motion to re-open the hearing. Ranalli seconded the motion & the Board voted unanimously to re-open the hearing.

Discussion Item: National Grid / Lighthouse

Mike Cooper & Alex Gamota, of Lighthouse, and Leslie Brown, General Counsel, were present. Lighthouse wishes to place a second box on the existing utility poles that were previously approved by the Board for the DAS. The Board of Selectmen has already approved the second box. Jeton noted that the Board was unaware of the Board of Selectmen approval. She noted that the poles are within the right of way and that she does not feel they need a modification from the Zoning Board of the prior approvals. The Board questioned why they were here if the Board of Selectmen already approved the second box & why it's a zoning matter. Gamota stated that the Inspector sent them to the ZBA. Jeton pointed out that the antennas are under the Board's jurisdiction. Bevacqua clarified that no additional antennas are required for the additional boxes. Gamota confirmed no additional antennas. Jeton feels the case is moot. The Board agreed. Jeton will write a memo to the Inspector informing her of their position on the second boxes.

PETITION NO. 3716

PETITIONER: Terravert LLC

PREMISES AFFECTED: 65 Cheever Cir.

MEMBERS: Anderson, McDonough, Jeton, Brown, Ranalli

The Board deliberated the case stating that petitioner should be given the opportunity to & should grade the lot, but that zoning relief was unnecessary, but a building permit is. Anderson pointed out that Petitioner filed as Party Aggrieved and no ZBA relief is required. They could authorize the Inspector to lift the Stop Work Order & to monitor compliance for grading. Brown suggested an engineer can certify the regraded slope. McDonough made a motion that no zoning relief was required & to overturn the Inspector. Anderson seconded the motion & the Board voted (5-0) that no zoning relief was required & to overturn the Inspector. Jeton will write the decision.

The meeting adjourned at 11:20 p.m.